

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BEN GILES,) Civil No. 08cv439-L(RBB)
v. Plaintiff,)
JUSTIN PAUL THOMPSON, *et al.*,)
Defendants.)
ORDER GRANTING EX PARTE
APPLICATION TO WITHDRAW AS
COUNSEL OF RECORD

On August 12, 2010 counsel for Defendant Water Toys, Inc. (“Water Toys”) filed an ex parte application to withdraw as counsel of record for that Defendant only. Although Water Toys and Plaintiff were served with the application, they did not respond. For the reasons which follow, the application to withdraw is **GRANTED**.

An attorney representing a client before a tribunal may not withdraw except by leave of court. *Darby v. City of Torrance*, 810 F. Supp. 275, 276 (C.D. Cal. 1992); Cal. R. Prof. Conduct 3-700(A)(1). This court requires counsel to “comply with the standards of professional conduct required of members of the State Bar of California, and decisions of any court applicable thereto.” Civ. Loc. R. 83.4(b).

Counsel maintains withdrawal is necessitated by Water Toys' failure to communicate and cooperate with its counsel in the proceedings. The counsel filed an answer in this case on January 16, 2009. All attempts to communicate with Water Toys since then have been

1 unsuccessful. The counsel argues these circumstances have rendered it unreasonably difficult to
2 continue to adequately represent this Defendant. While withdrawal under the circumstances of
3 this case is not mandatory, it is permissive. *See Cal. R. Prof. Conduct & 3-700(C)(1)(d)*
4 (unreasonably difficult for counsel to carry out his employment). Having reviewed the
5 application and the supporting declaration of counsel, the court finds good cause to **GRANT** the
6 application.

7 Water Toys is a corporation and therefore must be represented by counsel. *See Civ.*
8 Local Rule 83.3(k); *D-Beam Ltd. P'ship v. Roller Derby Skates, Inc.*, 366 F.3d 972, 973-74 (9th
9 Cir. 2004). No later than **September 20, 2010** Water Toys shall file a notice of appearance
10 identifying its new counsel, including address and telephone number.

11 For the foregoing reasons, **IT IS HEREBY ORDERED** as follows:

12 1. Defense counsel's *ex parte* application to withdraw as counsel of record for Defendant
13 Water Toys, Inc. is **GRANTED**.

14 2. The Clerk of Court shall reflect on the docket that Thomas F. Feerick, Esq. is
15 terminated as counsel for Defendant Water Toys, Inc. only.

16 3. Defense counsel shall serve a copy of this order on Water Toys, Inc. by most
17 expeditious means available and file a proof of service no later than **September 7, 2010**.

18 4. No later than **September 27, 2010** Water Toys, Inc. shall file a notice of appearance
19 identifying its new counsel, including address and telephone number.

20 5. The answer filed on behalf of Water Toys, Inc. may be stricken and default entered
21 against it if it fails timely to comply with this order.

22 **IT IS SO ORDERED.**

23 DATED: August 30, 2010

24 
25 M. James Lorenz
26 United States District Court Judge

27 COPY TO:

28 HON. RUBEN B. BROOKS
29 UNITED STATES MAGISTRATE JUDGE

ALL PARTIES/COUNSEL